# CCRB INVESTIGATIVE RECOMMENDATION

| Investigator:                                                                                      |                                                          | Team:                              | CCRB Case #:                                                             | <b>✓</b> Force | ☐ Discourt.     | ☐ U.S.    |
|----------------------------------------------------------------------------------------------------|----------------------------------------------------------|------------------------------------|--------------------------------------------------------------------------|----------------|-----------------|-----------|
| Daniel Gotlieb                                                                                     |                                                          | Team # 4                           | 200200119                                                                | ✓ Abuse        | O.L.            | ☐ Injury  |
| Incident Date(s)                                                                                   |                                                          | Location of Incident:              |                                                                          | Precinct:      | 18 Mo. SOL      | EO SOL    |
| Tuesday, 11/06/2001 10:30 PM                                                                       |                                                          | 90th Street and 88th Avenue Queens |                                                                          | 102            | 5/6/2003        | 5/6/2003  |
| Date/Time CV Reported                                                                              |                                                          | CV Reported At:                    | How CV Reported:                                                         | Date/Time      | Received at CCR | В         |
| Fri, 01/04/2002 6:30 PM                                                                            |                                                          | CCRB                               | In-person                                                                | Fri, 01/04/    | 2002 6:30 PM    |           |
| Complainant/Victim                                                                                 | Type                                                     | Home Addre                         | ss                                                                       |                |                 |           |
|                                                                                                    |                                                          |                                    |                                                                          |                |                 |           |
|                                                                                                    |                                                          |                                    |                                                                          |                |                 |           |
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| G 11 + 0 000 ( )                                                                                   |                                                          |                                    | <u> </u>                                                                 |                |                 |           |
| Subject Officer(s)                                                                                 | Shield                                                   | TaxID                              | Command                                                                  |                |                 |           |
| Subject Officer(s)  1. POM Vincent Hoosack                                                         | <b>Shield</b> 27469                                      | <b>TaxID</b> 923961                | 102 PCT                                                                  |                |                 |           |
|                                                                                                    |                                                          |                                    |                                                                          |                |                 |           |
| 1. POM Vincent Hoosack                                                                             | 27469                                                    | 923961                             | 102 PCT                                                                  |                |                 |           |
| POM Vincent Hoosack     POM Edward Kraemer                                                         | 27469<br>15837                                           | 923961<br>917834<br>895151         | 102 PCT<br>102 PCT                                                       | Inve           | estigator Recom | mendation |
| POM Vincent Hoosack     POM Edward Kraemer     SGT Patrick Abdul                                   | 27469<br>15837<br>00289                                  | 923961<br>917834<br>895151         | 102 PCT<br>102 PCT<br>102 PCT                                            | Inve           | estigator Recom | mendation |
| 1. POM Vincent Hoosack 2. POM Edward Kraemer 3. SGT Patrick Abdul  Officer(s) A.POM Edward Kraemer | 27469<br>15837<br>00289<br><b>Allegatio</b><br>Force: Eo | 923961<br>917834<br>895151<br>on   | 102 PCT<br>102 PCT<br>102 PCT<br>his gun at (\$ 87(2)                    | Inve           | estigator Recom | mendation |
| 1. POM Vincent Hoosack 2. POM Edward Kraemer 3. SGT Patrick Abdul  Officer(s)                      | 27469<br>15837<br>00289<br><b>Allegatio</b><br>Force: Eo | 923961<br>917834<br>895151         | 102 PCT<br>102 PCT<br>102 PCT<br>his gun at (\$ 87(2)                    | Inve           | estigator Recom | mendation |
| 1. POM Vincent Hoosack 2. POM Edward Kraemer 3. SGT Patrick Abdul  Officer(s) A.POM Edward Kraemer | 27469<br>15837<br>00289<br>Allegation<br>Force: Editor:  | 923961<br>917834<br>895151<br>on   | 102 PCT<br>102 PCT<br>102 PCT<br>his gun at \$87(2)<br>gun at \$87(2)(6) |                | estigator Recom | mendation |

## **Synopsis**

On November 6, 2001, at approximately 10:30 PM, § 87(2)(b) was driving westbound on Jamaica Avenue in a black 1997 Toyota Camry with tinted windows, with two of his friends, who had robbed a taxi cab driver at gunpoint earlier in the night. At the same time on Jamaica Avenue. 102<sup>nd</sup> Precinct Police Officer Edward Kraemer was driving an unmarked Chevrolet Lumina (RMP #872) with Sergeant Patrick Abdul and Officer Vincent Hoosack as passengers. §87(2)(b) turn onto 90<sup>th</sup> Street right in front of the Lumina, and subsequently ran a stop sign at the corner of 90<sup>th</sup> Street and 88<sup>th</sup> Avenue. After observing this, Officer Kraemer pulled over §87(2)(b) lengths away from the intersection, and all three officers approached the Toyota. Several requests were made for § 87(2)(b) and the passengers of the car to roll down their windows, and, because of this defiance, Sergeant Abdul opened the front passenger's door. Upon doing so, he noticed the handle of a .38 caliber revolver in the side compartment and yelled out "gun!" At this point, all three officers drew their firearms and took each occupant out of the car. The three occupants were handcuffed and secured while Sergeant Abdul searched the front passenger side, Officer Kraemer searched the driver's side, and Officer Hoosack searched the rear passenger side of the car. Back-up police officers arrived shortly thereafter, along with the victim of the armed robbery that occurred earlier in the night. The three occupants were lined up underneath the street lamp at the corner of 90th Street and 88th Avenue, and two were identified as having committed armed robbery earlier in the evening. All three individuals were then taken to the 102 nd Precinct.

§ 87(2)(g)

## **Summary of Complaint**

#### Complainant Statement

On November 6, 2001, \$87(2)(b) was driving his mother's black 1997 Toyota Camry with tinted windows on Jamaica Avenue near 83<sup>rd</sup> Street, at approximately 10:30 PM. He noticed that a police vehicle was behind him as he turned onto 83<sup>rd</sup> Street, when the car turned on its flashing lights. The vehicle stopped his car near that intersection and officers approached the car with their guns drawn. An officer whom \$87(2)(b) identified as "Sergeant Hoosack" (revealed later to have been Sergeant Abdul) approached the passenger side of the car with his gun drawn. He told the passenger, "roll down the tints, roll down the window." The passenger rolled down the window and the officer's gun was still pointed just outside of the car. The Sergeant took the passenger out of the car.

recalled at least five other officers surrounding the car. The officer who came to his window on the driver's side told him, "look straight and don't move." The Sergeant told the other officers to take the occupants out of the car and to hold them at gunpoint. The front-seat passenger was taken first, followed by \$87(2)(0) and then the rear-seat passenger. Each officer assisted in taking each individual out. After being taken out of the car, each occupant was "thrown" onto the hood of the unmarked police car, frisked, searched, and handcuffed. After each individual was searched and determined to be "clean," the Sergeant went back to the Camry and searched it. He looked in the side passenger door and found a .38 caliber handgun. \$87(2)(b) stated that the gun was not in plain view, and that he would not have been able to see it just by casually looking into the car. After he found the weapon, the Sergeant ordered the other officers to search the entire car. All three individuals were still being held at gunpoint while the car was searched. Nothing else was found, other than the .38 caliber gun.

After the car was searched, the three occupants were lined up in the street and told to keep their faces forward. A light was shined on them and, as \$87(2)(6) said, the "guy who got robbed that night...ID'd one of us." He stated that the victim took some time in his identification, and that the recovered gun belonged to the one who was positively identified. After one was identified, one of the officers said, "forget it, just bring all of them down." All three men were then taken to the 102 precinct.

# **Results of Investigation**

#### Police Documents

Despite previous Department requests, Officer Hoosack's memo book for this incident was never provided. Officer Kraemer's memo book (enclosure 11a-c) indicates that a car stop occurred at the corner of 90<sup>th</sup> Street and 88<sup>th</sup> Avenue at approximately 10:46 PM and that three individuals were put under arrest by Officer Hoosack. Sergeant Abdul's memo book (enclosure 12c-e) indicates the same information as Officer Kraemer's. Arrest Report #\$87(2)(5) (enclosure 13) and the Online Booking Sheet (enclosure 14a-b), provided by Officer Hoosack at his CCRB interview, indicates that \$87(2)(5) was arrested on November 6<sup>th</sup> by Officer Hoosack for robbery, criminal possession of a weapon, possession of marijuana, and violating a traffic signal at the corner of 90<sup>th</sup> Street and 88<sup>th</sup> Avenue.

The sprint printout, provided by Officer Hoosack (enclosure 15) indicates that a 911 call was placed at 9:53 PM on November 6<sup>th</sup> stating that two black males with a baby carriage robbed a livery cab driver at gunpoint.

Property voucher #\$\square (\text{enclosure 16}) indicates that Officer Hoosack vouchered one Rossi .38 Special Revolver and 4 .38 Special rounds. Property voucher #\$\square (\text{enclosure 17}) indicates that Officer Hoosack vouchered one clear ziplock bag containing eight smaller ziplock bags of marijuana and one clear plastic bag containing twenty-nine small ziplock bags of marijuana. Property voucher #\$\square (\text{enclosure 20}) indicates that Officer Hoosack vouchered \$93 in cash, one fifty-dollar bill, one twenty-dollar bill, one ten-dollar bill, and thirteen one-dollar bills. Officer Hoosack did not have the voucher for the baby carriage with him at the time of the interview, but indicated that it was vouchered along with everything else.

The Queens Robbery Squad Pattern Sheet (enclosure 21 and 22) indicates that two black males with a baby carriage had been robbing taxi cabs at gunpoint since November 1<sup>st</sup>. The Brooklyn Robbery Squad Pattern Sheet (enclosure 23) indicates the same information.

### Subject Officer Statements

At approximately 9:30 PM on November 6<sup>th</sup>, Officer Vincent Hoosack, along with Sergeant Abdul and Officer Kraemer, was called to the scene of a robbery. They were assigned to precinct conditions for the night. A livery taxi-cab driver was robbed at gunpoint by two black males with a baby carriage. At approximately 10:30 PM that same night, the three officers were responding to a similar call and noticed a black Toyota Camry, with tinted windows, driving erratically and at a high rate of speed on Jamaica Avenue near 90<sup>th</sup> Street. Officer Hoosack noticed that this car matched the description of the car put over the radio earlier in the night. The driver of the Camry ran a stop sign and the officers pulled it over, without any knowledge of wrongdoing other than its traffic violation. Officer Hoosack recalled seeing a black male in the back seat repeatedly turn around, looking "nervously" at the officers.

The three officers exited their car and approached the stopped vehicle—Sergeant Abdul was on the front passenger side and Officer Kraemer was on the driver's side. They asked the occupants to roll down the windows several times because the dark tints obstructed their view inside. The occupants did not comply. At this point, the occupants were moving around and "fidgeting" inside the car, and since the officers could not see inside, they opened the door and removed each occupant at the same time. Each occupant was told to get out of the car with his hands "up where [they could] see them." The officers did not drag them out of the car. Officer Hoosack noticed the "butt" of a gun sticking out of the front passenger console and he alerted his partners. At this point, each officer drew his firearm for safety purposes, and searched each occupant to make sure that they were unarmed. They were placed under arrest for having the gun in their car. Officer Hoosack asked the occupants to put their hands on the trunk of the car while each officer searched the car. He stated that the officers did not necessarily point their guns at the occupants of the car, but that their guns were certainly drawn. A baby carriage was found in the back seat of the car with the alleged proceeds from the robbery earlier in the evening. Officer Hoosack also found a substantial amount of marijuana in the vehicle. Four marked sector cars showed up shortly after the arrest. Officer Hoosack called the complainant from the previous robbery to come to the scene and he identified two of the individuals right away. § 87(2)(b) was not one of the perpetrators identified, but since he was driving the two identified individuals, he was taken to the precinct with them.

On November 6<sup>th</sup>, at approximately 10:30 PM, Officer Edward Kraemer, Sergeant Abdul's operator, was driving unmarked RMP #\$5720 to a "purse snatch," when a black Toyota Camry, driving "recklessly" and "at a high rate of speed," cut him off just before the intersection between Jamaica Avenue and 90<sup>th</sup> Street. Officer Kraemer followed this vehicle down 90<sup>th</sup> Street because of its behavior and, eventually pulled it over near the 88<sup>th</sup> Avenue intersection for running a stop sign. Upon the stop, Officer Kraemer noticed a black male in the back seat "jumping all around...staring at us," and a baby carriage next to him. This raised his suspicion as he had heard of a pattern of armed robberies that occurred over the past few days, as well as that night, involving black males and a baby carriage.

Officer Kraemer approached the driver's window of the car, while Sergeant Abdul approached the front-seat passenger's window and Officer Hoosack approached the rear-seat passenger's window, yet neither of them could see inside the car because of its dark tinted windows. Officer Kraemer gave several orders to the driver, later known to be \$37(2)(b) to roll down his window, but \$37(2)(b) did not comply. Sergeant Abdul, after giving several orders of the same nature to the passenger, opened the front-seat passenger's door and yelled, "gun." Officer Kraemer immediately drew his gun, opened the driver's door, and told \$37(2)(b) ("I want to see your hands." \$37(2)(b) (complied and was taken out of the vehicle before being handcuffed near the rear of the car, with the other two occupants of the vehicle. Officer Kraemer frisked and searched \$37(2)(b) (officer Kraemer searched the "lungeable area" surrounding the driver's seat for any additional contraband, but did not find any. The remainder of Officer Kraemer's statement is identical to that of Officer Hoosack.

After approaching the Camry and making several requests to roll down the window, Sergeant Abdul opened the unlocked door to the front-seat passenger and immediately saw the handle of a .38 caliber revolver in the side compartment. He yelled out "gun," to alert his partners and drew his weapon. He reported this over the radio and called for back-up. After removing the occupants from the vehicle, Sergeant Abdul searched the immediate area inside the front-seat passenger side of the car, while Officer Hoosack searched the area surrounding the back-seat and Officer Kraemer searched the area surrounding the driver's side. The remainder of Sergeant Abdul's statement reflects that of Officer Kraemer and Officer Hoosack.

§ 87(2)(g)

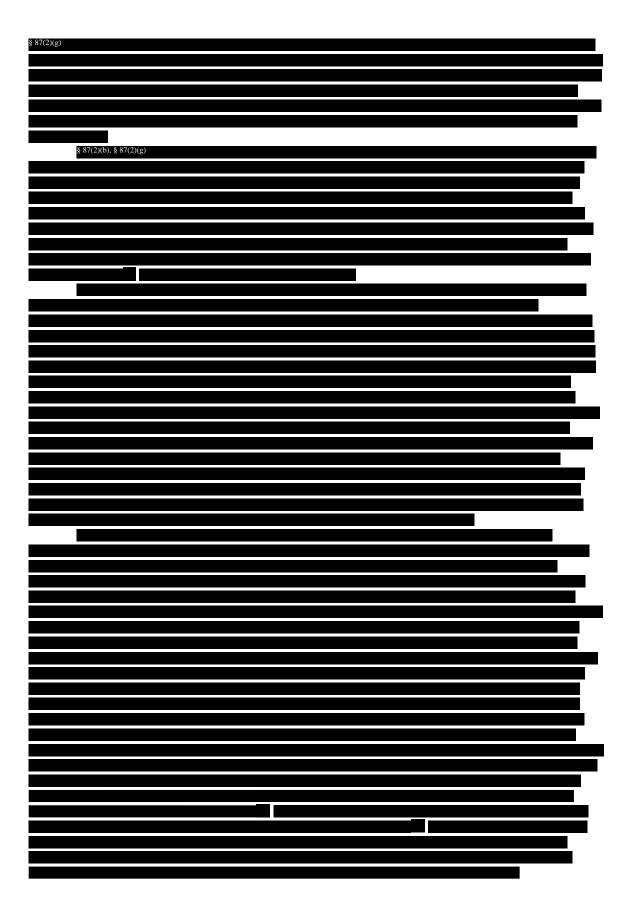
# **Conclusions and Recommendations**

| § 87(2)(b), § 87(2)(g) |   |
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The important and essential facts of this case are confirmed. A gun was found in the side compartment of the front-seat passenger's door of \$87(2)(b) are solved. Solved Toyota Camry. All three officers drew their firearms in response to this discovery. The occupants of the vehicle were removed and their persons were subsequently searched for additional weapons. The car was also searched after each occupant was secured. All other information in this case is extraneous and detracts from the purpose of these actions, alleged as misconduct by \$87(2)(b)

Though there is no applicable Patrol Guide procedure regarding the circumstances under which an officer can draw and/or point his/her weapon, the issue is whether the action was reasonable under the circumstances. As such, this allegation is being pled using the provisions of Patrol Guide procedure 203-10 regarding "engaging in conduct prejudicial to good order, efficiency, or discipline of the Department."

| Allega                                                                                                       | ations                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|--------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A.                                                                                                           | Force:                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                | d Kraemer pointed his gun at \$87(2)(5)<br>Procedure 203-10.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | in violation of                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| В.                                                                                                           | Force:                                                                                                                                                                        | Sergeant Patric<br>Guide Procedu                                                                                                                                                                                                                                                               | ck Abdul pointed his gun at § 87(2)(b) are 203-10.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | in violation of Patrol                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| D.                                                                                                           | Force:                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                | t Hoosack pointed his gun at §87(2)(b) Procedure 203-10.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | in violation of                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Depar<br>one's<br>determ<br>should<br>govern<br>of the:<br>"fidge<br>the ba<br>car pu<br>a traff<br>that the | er person s  thment v. C  firearm wi  nining the  l be exami  n its action  se concern  \$57(2)(g)  ting," and  ck window  t over the r  ic violation  ese men w  ws, the off | o long as he has a Gliner, OATH Indestiner, OATH Indestine the procedural form necessity of this age and independently in each circumstants.  According around the vand Officer Hoose radio earlier in the n, with the patterneyere dangerous. We ficers remained unwindow space uncontrolled. | ce Department permits an officer to "da<br>reasonable fear for his own or another<br>lex No. 955/00 (Sept. 6, 2000). Without<br>mulae, the department provides broad of<br>action. While each incident in which an<br>y, an overall concern for safety, for bot<br>ance. As such, misconduct can be deter<br>ding to all three officers' testimonies, the<br>ear. Officer Kraemer claimed to have<br>esack claimed that the black 1997 Toyon<br>enight. Although Sergeant Abdul did the<br>ded robberies familiar to all three of the<br>When faced with defiance to their order<br>maware of what was inside, other than wo<br>overed by the tints. | c's personal safety." Police that limiting the action of drawing discretion to its officers in an officer draws his/her firearm that an officer and civilian, should termined to exist only in the absence three black men were seen three black men were se |
|                                                                                                              |                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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| C.                                                                                                           | Abuse                                                                                                                                                                         | of Authority:                                                                                                                                                                                                                                                                                  | Sergeant Patrick Abdul searched to was an occupant in violence Procedure 218-13.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | the car in which § 87(2) olation of Patrol Guide                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| .38 ca                                                                                                       | nt, Sergeai<br>liber revol                                                                                                                                                    | nt Abdul ordered t                                                                                                                                                                                                                                                                             | rs searched parts of \$87(2)(b) s them to do so. He also opened the doo ing of the incident and is thus the one r                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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| Investigator: | Date: |
|---------------|-------|
| Supervisor:   | Date: |
| Reviewed by:  | Date: |
| Reviewed by:  | Date: |